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SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DANIELLE A. N.,

8 Plaintiff,

9 v.

10 FRANK BISIGNANO<sup>1</sup>,  
11 Commissioner of Social  
Security,

12 Defendant.  
13

NO. 4:24-CV-5137-TOR

ORDER AFFIRMING  
COMMISSIONER'S DENIAL OF  
BENEFITS UNDER TITLE XVI OF  
THE SOCIAL SECURITY ACT

BEFORE THE COURT is Plaintiff's Motion for judicial review of

Defendant's denial of her application for benefits under Title XVI of the Social

1Frank Bisignano was sworn in as the Commissioner of Social Security on May 7, 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Frank Bisignano is substituted for Martin O'Malley as the defendant in this suit. No further action need be taken to continue this under the Social Security Act, 42 U.S.C. § 405(g).

1 Security Act (ECF No. 13). This matter was submitted for consideration without  
2 oral argument. The Court has reviewed the record and files herein and is fully  
3 informed. For the reasons discussed below, the Commissioner's denial of  
4 Plaintiff's application for benefits under Title XVI of the Social Security Act is  
5 AFFIRMED

6 **JURISDICTION**

7 The Court has jurisdiction under 42 U.S.C. §§ 405(g), 1383(c)(3).

8 **STANDARD OF REVIEW**

9 A district court's review of a final decision of the Commissioner of Social  
10 Security is governed by 42 U.S.C. § 405(g). The scope of review under § 405(g) is  
11 limited: the Commissioner's decision will be disturbed "only if it is not supported  
12 by substantial evidence or is based on legal error." *Hill v. Astrue*, 698 F.3d 1153,  
13 1158-59 (9th Cir. 2012) (citing 42 U.S.C. § 405(g)). "Substantial evidence" means  
14 relevant evidence that "a reasonable mind might accept as adequate to support a  
15 conclusion." *Id.* at 1159 (quotation and citation omitted). Stated differently,  
16 substantial evidence equates to "more than a mere scintilla[,] but less than a  
17 preponderance." *Id.* (quotation and citation omitted). In determining whether this  
18 standard has been satisfied, a reviewing court must consider the entire record as a  
19 whole rather than searching for supporting evidence in isolation. *Id.*

1 In reviewing a denial of benefits, a district court may not substitute its  
2 judgment for that of the Commissioner. *Edlund v. Massanari*, 253 F.3d 1152,  
3 1156 (9th Cir. 2001). If the evidence in the record “is susceptible to more than one  
4 rational interpretation, [the court] must uphold the ALJ’s findings if they are  
5 supported by inferences reasonably drawn from the record.” *Molina v. Astrue*, 674  
6 F.3d 1104, 1111 (9th Cir. 2012). Further, a district court “may not reverse an  
7 ALJ’s decision on account of an error that is harmless.” *Id.* An error is harmless  
8 “where it is inconsequential to the [ALJ’s] ultimate nondisability determination.”  
9 *Id.* at 1115 (quotation and citation omitted). The party appealing the ALJ’s  
10 decision generally bears the burden of establishing that it was harmed. *Shinseki v.*  
11 *Sanders*, 556 U.S. 396, 409-10 (2009).

## 12 **FIVE STEP SEQUENTIAL EVALUATION PROCESS**

13 A claimant must satisfy two conditions to be considered “disabled” within  
14 the meaning of the Social Security Act. First, the claimant must be unable “to  
15 engage in any substantial gainful activity by reason of any medically determinable  
16 physical or mental impairment which can be expected to result in death or which  
17 has lasted or can be expected to last for a continuous period of not less than 12  
18 months.” 42 U.S.C. §§ 423(d)(1)(A), 1382c(a)(3)(A). Second, the claimant’s  
19 impairment must be “of such severity that [he or she] is not only unable to do [his  
20 or her] previous work[,] but cannot, considering [his or her] age, education, and

1 work experience, engage in any other kind of substantial gainful work which exists  
2 in the national economy.” 42 U.S.C. §§ 423(d)(2)(A), 1382c(a)(3)(B).

3 The Commissioner has established a five-step sequential analysis to  
4 determine whether a claimant satisfies the above criteria. *See* 20 C.F.R.  
5 § 416.920(a)(4)(i)-(v). At step one, the Commissioner considers the claimant’s  
6 work activity. 20 C.F.R. § 416.920(a)(4)(i). If the claimant is engaged in  
7 “substantial gainful activity,” the Commissioner must find that the claimant is not  
8 disabled. 20 C.F.R. § 416.920(b).

9 If the claimant is not engaged in substantial gainful activities, the analysis  
10 proceeds to step two. At this step, the Commissioner considers the severity of the  
11 claimant’s impairment. 20 C.F.R. § 416.920(a)(4)(ii). If the claimant suffers from  
12 “any impairment or combination of impairments which significantly limits [his or  
13 her] physical or mental ability to do basic work activities,” the analysis proceeds to  
14 step three. 20 C.F.R. § 416.920(c). If the claimant’s impairment does not satisfy  
15 this severity threshold, however, the Commissioner must find that the claimant is  
16 not disabled. *Id.*

17 At step three, the Commissioner compares the claimant’s impairment to  
18 several impairments recognized by the Commissioner to be so severe as to  
19 preclude a person from engaging in substantial gainful activity. 20 C.F.R.  
20 § 416.920(a)(4)(iii). If the impairment is as severe or more severe than one of the

1 enumerated impairments, the Commissioner must find the claimant disabled and  
2 award benefits. 20 C.F.R. § 416.920(d).

3 If the severity of the claimant’s impairment does meet or exceed the severity  
4 of the enumerated impairments, the Commissioner must pause to assess the  
5 claimant’s “residual functional capacity.” Residual functional capacity (“RFC”),  
6 defined generally as the claimant’s ability to perform physical and mental work  
7 activities on a sustained basis despite his or her limitations (20 C.F.R.  
8 § 416.945(a)(1)), is relevant to both the fourth and fifth steps of the analysis.

9 At step four, the Commissioner considers whether, in view of the claimant’s  
10 RFC, the claimant is capable of performing work that he or she has performed in  
11 the past (“past relevant work”). 20 C.F.R. § 416.920(a)(4)(iv). If the claimant is  
12 capable of performing past relevant work, the Commissioner must find that the  
13 claimant is not disabled. 20 C.F.R. § 416.920(f). If the claimant is incapable of  
14 performing such work, the analysis proceeds to step five.

15 At step five, the Commissioner considers whether, in view of the claimant’s  
16 RFC, the claimant is capable of performing other work in the national economy.  
17 20 C.F.R. § 416.920(a)(4)(v). In making this determination, the Commissioner  
18 must also consider vocational factors such as the claimant’s age, education and  
19 work experience. *Id.* If the claimant is capable of adjusting to other work, the  
20 Commissioner must find that the claimant is not disabled. 20 C.F.R.

1 § 416.920(g)(1). If the claimant is not capable of adjusting to other work, the  
2 analysis concludes with a finding that the claimant is disabled and is therefore  
3 entitled to benefits. *Id.*

4 The claimant bears the burden of proof at steps one through four above.  
5 *Tackett v. Apfel*, 180 F.3d 1094, 1098 (9th Cir. 1999). If the analysis proceeds to  
6 step five, the burden shifts to the Commissioner to establish that (1) the claimant is  
7 capable of performing other work; and (2) such work “exists in significant  
8 numbers in the national economy.” 20 C.F.R. § 416.960(c)(2); *Beltran v. Astrue*,  
9 700 F.3d 386, 389 (9th Cir. 2012).

10 **ALJ’s FINDINGS**

11 On March 24, 2022, Plaintiff protectively filed for Title XVI supplemental  
12 security income, alleging a disability onset date of March 1, 2022. Administrative  
13 Transcript (Tr.) ECF No. 6 at 22. Plaintiff generally alleged she was disabled due  
14 to Raynauds syndrome, Marfan syndrome, major depressive disorder, social  
15 anxiety disorder, gender dysphoria, avoidant personality disorder, post-traumatic  
16 stress disorder, learning disorder with impaired reading and writing, mitral valve  
17 prolapse, history of gender reassignment surgery, status-post gender-affirming  
18 facial surgery, autoimmune thyroiditis, stage III chronic kidney disease, recurrent  
19 urinary tract infection, scoliosis, and headaches. Tr. 25. Her application was  
20 denied on October 31, 2022, and upon reconsideration on June 20, 2023. Tr. 22.

1 By mutual agreement, the Administrative Law Judge (“ALJ”) conducted a  
2 telephonic hearing on May 15, 2024. Tr. 22. The ALJ then denied Plaintiff’s  
3 claims on June 2, 2024. Tr. 39.

4 At step one, the ALJ determined that Plaintiff had not engaged in substantial  
5 gainful employment since March 24, 2022, the date of application. Tr. 24. At step  
6 two, the ALJ determined that Plaintiff’s Raynaud’s syndrome, seizure disorder,  
7 Marfan syndrome, major depressive disorder, social anxiety disorder, gender  
8 dysphoria, avoidant personality disorder, post-traumatic distress disorder  
9 (“PTSD”), and learning disorder with impaired reading and writing were severe  
10 impairments, supported by the medical record. Tr. 24. The ALJ found that  
11 Plaintiff’s mitral valve prolapse, history of gender reassignment surgery, status-post  
12 gender-affirming facial surgery, autoimmune thyroiditis, stage III kidney disease,  
13 and recurrent urinary tract infection to be non-severe medically determinable  
14 impairments. Finally, the ALJ found Plaintiff’s headaches and scoliosis to be  
15 nonmedically determinable. Tr. 25.

16 At step three, the ALJ determined that Plaintiff’s physical impairments do  
17 not meet or medically equal a listed impairment pursuant to 20 CFR Part 404,  
18 Subpart P, Appendix 1 (20 CFR 416.920(d), 416.925 and 416.926). Tr. 25. With  
19 respect to Plaintiff’s cardiovascular impairments, the ALJ was not presented with  
20 the appropriate diagnostic and clinical findings pursuant to the listing. Tr. 25. The

1 ALJ found that Plaintiff's seizure patterns did not meet the requirements of listing  
2 11.02. Tr. 25. Likewise, the ALJ found that Plaintiff's Marfan syndrome  
3 symptoms did not comport with a listing as related to either 14.06 and 14.09,  
4 dealing with connective tissues and inflammatory arthritis, and 1.00 dealing with  
5 musculoskeletal disorders. Tr. 26. Regarding Plaintiff's mental impairments, the  
6 ALJ determined that Plaintiff had moderate impairments in understanding,  
7 remembering, or applying information, interacting with others, concentrating,  
8 persisting, or maintaining pace, and adapting or managing oneself. Tr. 25–28. The  
9 ALJ also did not find that Plaintiff had a "paragraph C" listing because she did not  
10 produce evidence of "medical treatment, mental health therapy, psychosocial  
11 support, or a highly structured setting that is ongoing that diminishes the symptoms  
12 and signs of a mental health disorder" and "marginal adjustment, demonstrated as  
13 minimal capacity to adapt to changes in environment or to demands that are not  
14 already part of daily life." Tr. 28.

15 The ALJ determined that Plaintiff has the Residual Functional Capacity  
16 ("RFC") to perform the following:

17 [M]edium work as defined in 20 CFR 416.967(c) except the individual  
18 can occasionally climb ramps and stairs, but never climb ladders, ropes,  
19 or scaffolds. The individual can frequently stoop, crouch, kneel, and  
20 crawl. The individual can never perform driving as a job duty. The  
individual should avoid all exposure to loud noise, excessive vibrations,  
and workplace hazards, such as dangerous moving machinery and  
unprotected heights. The individual is limited to performing simple  
tasks. The individual can tolerate occasional changes in the work

1 setting. The individual can tolerate frequent interaction with coworker  
2 and supervisors. The individual can tolerate occasional interaction with  
the public.

3 Tr. 28.

4 In making this determination, the ALJ found that Plaintiff's medically  
5 determinable impairments could reasonably cause some of the alleged symptoms,  
6 but that her statements concerning intensity, persistence, and limiting effects were  
7 not consistent with the overall record. Tr. 29–30. The ALJ opined that the  
8 medical evidence provided some degree of limitation, but does not support the  
9 degree that Plaintiff presents.

10 Regarding her physical impairments, the ALJ discussed that two surgeries to  
11 repair a post-gender reassignment surgery rectovaginal fistula were cancelled due  
12 to partial seizures observed during pre-operation examination, one in September  
13 and one in December of 2020. Tr. 30. Plaintiff's right arm and head were  
14 twitching but she was alert and verbal during the seizure. Tr. 30. In March 2021,  
15 Plaintiff sought seizure management treatment from Dr. Steven Erlemeier, and was  
16 prescribed 300 milligrams of Gabapentin three times per day with mixed results  
17 through 2022 and 2023. Tr. 30–31. In November 2023, Plaintiff reported that she  
18 had not had a seizure in the past 30-60 days, despite not receiving Gabapentin due  
19 to a pharmacy error. Tr. 31. The ALJ noted “conservative” hypothyroid treatment  
20 and hormone therapy with Dr. Bruce Wilson from May 2021 until November

1 2023. Tr 30. In August 2022, Plaintiff underwent gender-affirming facial  
2 feminization surgery and had recovered by November 2022. Tr. 31. Plaintiff  
3 underwent a consultative exam with Oscar Del Valle, ARNP, who limited her to  
4 light work after completing a “normal physical examination.” Tr. 31. In  
5 December 2023, she was examined at Walla Walla Cardiology related to her  
6 syncope, collapse, and shortness of breath. Tr. 31. The results did not indicate  
7 congestive heart failure, and she was rated in class I of the New York Heart  
8 Association functional class. Tr. 31.

9       The ALJ found the opinion of Dr. Howard Platter, the State Agency medical  
10 consultant, somewhat persuasive. Tr. 36. Dr. Platter completed a “Physical  
11 Residual Functional Capacity Assessment,” where he found that Plaintiff could lift  
12 or carry 50 pounds occasionally and 25 pounds frequently, could stand and/or walk  
13 for about 6 hours in an 8-hour workday, but could never climb ladders, ropes, and  
14 scaffolds, and should avoid exposure to workplace hazards. Tr. 36. The ALJ  
15 credited Dr. Platter’s assessment as taking into account Plaintiff’s Reynaud’s  
16 syndrome and fatigue. Tr. 36.

17       In May 2023, State Agency consultant Dr. Lewis W. completed a “Physical  
18 Residual Functional Capacity Assessment,” in which he found no severe physical  
19 impairments. Tr. 36. The ALJ did not assign this opinion any weight.

20       The ALJ found ARNP Del Valle’s consultive opinions to be unpersuasive

1 because it is internally inconsistent. Tr. 36. Specifically, the ALJ found that,  
2 despite a normal physical examination excluding some spine deviation, ARNP  
3 restricted Plaintiff's lifting and carrying to 20-25 pounds occasionally, walking to  
4 three hours per day, and standing to three hours per day. Tr. 36. The ALJ found  
5 that while Plaintiff's Reynaud's syndrome and Marfan syndrome restrict Plaintiff  
6 to medium work, the record does not support the level of extreme restriction found  
7 by ARNP Del Valle. Tr. 36. Moreover, the ALJ found inconsistencies with  
8 Plaintiff's ability to drive and shop, and found that ARNP Del Valle made  
9 psychological findings during a physical consultative examination. Tr. 36

10 As to her mental health impairments, the ALJ noted Plaintiff's long history  
11 with gender dysphoria and social anxiety disorder. Tr. 31. After attempting to  
12 overdose in September 2019, Plaintiff was assessed for suicide risk relating to her  
13 gender transition surgeries. Tr. 31. She declined inpatient hospitalization related  
14 to her mental health. Tr. 32. In November 2021 and February 2022, Plaintiff  
15 requested Spravato treatment for severe anxiety and depression. Tr. 32. In April  
16 2022, she presented with a very high score for suicide risk, but refused to speak to  
17 a counselor or try a new antidepressant. Tr. 32. In June 2022, her counselor had  
18 recently retired, and she was concerned about finding a new psychiatrist competent  
19 in transitioning and transitioning patients. Tr. 32.

20 In September 2022, Plaintiff underwent a consultive physiological

1 examination with Dr. Jeanette Higgins, where she reported ongoing severe anxiety  
2 and depression and detailed her learning disability, discussing how she had utilized  
3 special education and ultimately never received a GED. Tr. 32. Dr. Higgins  
4 categorized Plaintiff's depression and anxiety as severe, but treatable within 12  
5 months, making such findings as: Plaintiff is able to manage funds in her own best  
6 interest, she would not have difficulty performing simple and repetitive tasks, she  
7 would have difficulty performing detailed and complex tasks on a consistent basis  
8 due to her learning difficulties and anxiety, she would not have difficulty accepting  
9 instructions from supervisors, she would have difficulty interacting with coworkers  
10 and the public due to her anxiety and avoidance, she would not have difficulty  
11 performing work activities on a consistent basis, she would have difficulty  
12 maintaining regular attendance, and she would have difficulty dealing with  
13 workplace stress. Tr. 32–33.

14 The ALJ found Dr. Higgin's opinion unpersuasive. Tr. 35. While Dr.  
15 Higgins found that Plaintiff would have a marked limitation in maintaining regular  
16 attendance and dealing with stress in the workplace, the ALJ did not find this  
17 consistent with the rest of the medical record, and determined that the opinion  
18 relied on subjective allegations based on evidence that Plaintiff was taking her  
19 mental health medication, was at a baseline, and refused to see a psychiatrist or try  
20 other medications. Tr. 35

1 In June 2023, Plaintiff underwent a consultative psychological examination  
2 with Angela Cowell, PMHNP, presenting with anxiety, depression, chronic  
3 fatigue, and suicidal thoughts. Tr. 33. Among her symptoms of anxiety and  
4 depression included a report that she had not been to a store in two years. Tr. 33.  
5 After the exam, ARNP Cowell diagnosed Plaintiff with PTSD, social anxiety  
6 disorder, and major depressive disorder, and made the following findings: Plaintiff  
7 was not able to manage funds, Plaintiff is able to understand, remember, and carry  
8 out simple instructions but not complex instructions, she is not able to sustain  
9 concentration and persist in work-related activity at a reasonable pace, and she is  
10 neither able to interact with coworkers and supervisors, nor with the general  
11 public. Tr. 34.

12 The ALJ found ARNP Cowell's opinion unpersuasive, as the finding of  
13 marked or severe mental functioning do not appear in the treatment records. Tr.  
14 35.

15 State Agency psychologist Dr. Kristine Harrison completed a "Psychiatric  
16 Review Technique Form," and found that Plaintiff had a moderate limitation in  
17 understanding, remembering, and applying information; a moderate limitation in  
18 interacting with others; a moderate limitation in maintaining concentration,  
19 persistence, or pace; and a mild limitation in adapting or managing oneself. Tr. 34.  
20 Dr. Harrison also completed a "Mental Residual Functional Capacity Assessment,"

1 where she found that Plaintiff had a moderate limitation in understanding and  
2 remembering information, carrying out detailed instructions, maintaining attention  
3 and concentration for an extended period, completing a normal workday and  
4 workweek without interruption, interacting with others, and accepting instruction  
5 and responding appropriately to criticism. Tr. 35.

6 In June 2023, State Agency psychologist Dr. Michael B. completed a  
7 "Psychiatric Review Technique Form," where he found that Plaintiff had a  
8 moderate limitation in understanding, remembering, or applying information,  
9 interacting with others, maintaining concentration, and adapting or managing  
10 oneself. Tr. 35. Dr. B also completed a "Mental Residual Functional Capacity  
11 Assessment," where he found Plaintiff had a moderate limitation in her ability to  
12 understand and remember detailed instructions, carry out detailed instructions,  
13 maintain attention and concentration for extended periods, complete a normal  
14 workday without interruptions, interact appropriately with the general public,  
15 accept instructions and criticisms from supervisors, get along with coworkers or  
16 peers, respond appropriately to the changes in a work setting, and set realistic goals  
17 or make plans independently of others. Tr. 35.

18 The ALJ found Dr. Harrison's opinion somewhat persuasive and Dr. B's  
19 opinion more persuasive as more consistent with the record. Tr. 35.

20 The ALJ reviewed the "Mental Medical Source Statements," of Oliver

1 Lawler, LMSW, and found that he is not an appropriate medical source per  
2 404.1502(a), as an individual licensed master social worker. Tr. 36. The ALJ  
3 concluded that his findings of extreme limitations are unsupported in the medical  
4 record. Tr. 36.

5 Likewise, the ALJ found that the letter submitted by Oliver Birchwood-  
6 Glover, LICSW as unpersuasive both because he is not an acceptable medical  
7 source pursuant to 404.1502(a), an individual who is a licensed independent  
8 clinical social worker and the statements contained therein are unsupported by the  
9 medical record. Tr. 36.

10 In taking into account the objective medical evidence, Plaintiff's subjective  
11 complaints, and the treatment required, the ALJ determined that the medical  
12 evidence was inconsistent with the subjective allegations. Tr. 36–37. Plaintiff has  
13 been taking medication for anxiety, was trying to find a new mental health  
14 counselor, believed her impairments related to her environment, and that her  
15 mental health improved with gender affirming surgery. Tr. 37. She also testified  
16 that her seizure disorder does not impair her ability to drive. Tr. 37.

17 At step four, the ALJ determined that Plaintiff has no past relevant work  
18 history. Tr. 37.

19 At step five, the ALJ determined that Plaintiff is able to perform work in the  
20 national economy based on her age, work experience, and residual functional

1 capacity. Tr. 37–38. At the hearing, the vocational expert assessed opportunities  
2 for an unskilled, medium work occupational base and determined that jobs such as  
3 cleaner custodian, kitchen helper, and linen room attendant would be available  
4 nationally. Tr. 38.

5 Given the above steps, the ALJ determined that Plaintiff was not disabled.

## 6 ISSUES

7 Plaintiff seeks judicial review of the Commissioner’s final decision denying  
8 her application for Title XVI supplemental security income. Plaintiff raises the  
9 following issues on review:

- 10 I. Whether the ALJ erred in rejecting certain medical opinions.
- 11 II. Whether the ALJ erred in rejecting her subjective symptom testimony.

12 ECF No. 13 at 7, 12.

## 13 DISCUSSION

### 14 **I. The ALJ did not err in rejecting certain medical opinions.**

15 Plaintiff argues that the ALJ erred by rejecting medical opinions from  
16 multiple sources that disagreed with her findings. ECF No. 13 at 7. An ALJ must  
17 consider and evaluate the persuasiveness of all medical opinions or prior  
18 administrative medical findings from medical sources. 20 C.F.R. § 416.920c(a)-  
19 (b). The factors for evaluating the persuasiveness of medical opinions and prior  
20 administrative medical findings include supportability, consistency, relationship

1 with the claimant, specialization, and “other factors that tend to support or  
2 contradict a medical opinion or prior administrative medical finding” including but  
3 not limited to “evidence showing a medical source has familiarity with the other  
4 evidence in the claim or an understanding of our disability program’s policies and  
5 evidentiary requirements.” 20 C.F.R. § 416.920c(c)(1)-(5).

6 The ALJ is required to explain how the most important factors,  
7 supportability and consistency, were considered. 20 C.F.R. § 416.920c(b)(2).  
8 These factors are explained as follows:

- 9 (1) *Supportability.* The more relevant the objective medical evidence and  
10 supporting explanations presented by a medical source are to support his  
or her medical opinion(s) or prior administrative medical finding(s), the  
11 more persuasive the medical opinions or prior administrative medical  
finding(s) will be.
- 12 (2) *Consistency.* The more consistent a medical opinion(s) or prior  
13 administrative medical finding(s) is with the evidence from other medical  
sources and nonmedical sources in the claim, the more persuasive the  
14 medical opinion(s) or prior administrative medical finding(s) will be.

15 20 C.F.R. § 416.920c(c)(1)-(2).

16 The ALJ may, but is not required to, explain how “the other most persuasive  
17 factors in paragraphs (c)(3) through (c)(5)” were considered. 20 C.F.R.  
18 § 416.920c(c)(b)(2). However, where two or more medical opinions or prior  
19 administrative findings “about the same issue are both equally well-supported ...  
20 and consistent with the record ... but are not exactly the same,” the ALJ is required

1 to explain how “the most persuasive factors” were considered. 20 C.F.R.  
2 § 416.920c(c)(2).

3 The ALJ determined that ARNP Del Valle placed restrictions on Plaintiff  
4 not observed by other medical sources, including lifting 20-25 pounds occasionally  
5 and walking or standing for three hours a day, but that there is no support in the  
6 record for that level of limitation. Tr. 36. Additionally, the opinion stated that  
7 Plaintiff does not drive but is able to shop for groceries. Yet at the hearing,  
8 Plaintiff testified that she does drive, but that she had not been to a store in 15  
9 years. Tr. 36. The ALJ discredited Dr. Higgins’ opinion as unsupported by the  
10 record, and because it relied on Plaintiff’s own testimony that she was taking  
11 mental health medications and was at “baseline.” Tr. 35. The ALJ rejected the  
12 opinion of Angela Cowell, ARNP, because objective medical evidence reviewed  
13 by the ALJ contradicted her finding that Plaintiff had a marked limitation in  
14 concentration, persistence, and pace. Tr. 35. In discounting ARNP Cowell’s  
15 opinion, the ALJ points to Plaintiff’s treatment notes from doctors surrounding her  
16 transition that discuss the trajectory of her depression and suicidal ideation. ECF  
17 No. 6 at 666–71 and 716–17. Plaintiff argues that the ALJ erred by not  
18 considering whether these opinions were consistent with each other. ECF No. 13  
19 at 8–12. And further alleges that the ALJ took into account the non-examining  
20 non-treating agency sources of Dr. Kristine Harrison and Dr. Micheal B. because

1 their opinions supported her ultimate finding. *Id.* at 12.

2       The Court finds that the ALJ has provided reasons grounded in consistency  
3 and supportability for adopting the opinions of Dr. Harrison and Dr. B and  
4 discounting those of Dr. Higgins, ARNP Cowell and ARNP Del Valle. The ALJ  
5 explained that a holistic review of the medical records provided more support for  
6 the findings of Dr. B and Dr. Harrison, and less support for the findings of Dr.  
7 Higgins, ARNP Cowell and ARNP Del Valle. This reasoning is supported, as Drs.  
8 B and Harrison reviewed the Plaintiff's medical records in rendering their  
9 decisions. *Zuniga v. Saul*, 801 Fed. Appx. 465, 467 (9th Cir. 2019) (citing  
10 *Tonapetyan v. Halter*, 242 F.3d 1144, 1148–49 (9th Cir. 2001)). Moreover, the  
11 ALJ provided specific reasons for rejecting each of the opinions separate from  
12 their individual inconsistency with the record as a whole. Dr. Higgins relied on  
13 Plaintiff's subjective reports and refusal to see a psychiatrist or behavioral health  
14 specialist as the basis for her findings. Tr. 35. This is confirmed in Dr. Higgin's  
15 report, which also stated that Plaintiff's mental health conditions are treatable and  
16 could be expected to improve within 12 months with psychotherapy and/or  
17 medication management. ECF No. 6 at 705–10. As stated above, the ALJ pointed  
18 to specific records she found to be inconsistent with ARNP Cowell's  
19 determination. Tr. 35. Notably, ARNP Cowell also found that Plaintiff could  
20 improve with optimal treatment over a 12-month period. ECF No. 6 at 807. And

1 Plaintiff's testimony contradicts ARNP Del Valle's findings, and the record  
2 contradicts the physical limitations imposed. ECF No. 6 at 54–55 and 782–87.

3 Plaintiff has not met her burden to show that the ALJ's interpretation of the  
4 challenged opinions was unsupported by substantial evidence. As aforementioned,  
5 “[s]ubstantial evidence is more than a mere scintilla but less than a  
6 preponderance.” *Orn v. Astrue*, 495 F.3d 625, 630 (9th Cir. 2007) (citation  
7 omitted). The ALJ's decision should be upheld where the “evidence is susceptible  
8 to more than one rational interpretation.” *Id.* (citation omitted). The court “must  
9 uphold the ALJ's findings if they are supported by inferences reasonably drawn  
10 from the record.” *Molina*, 674 F.3d at 1111. Here, the Court finds adequate  
11 findings that articulate specific consistency and supportability factors used to  
12 discount certain medical opinions. As such, the ALJ is affirmed.

13 **II. The ALJ did not err in consideration of Plaintiff's subjective  
14 complaints.**

15 Next, Plaintiff argues that the ALJ improperly discounted her subjective  
16 symptom testimony by not offering specific evidence that was deemed inconsistent  
17 with her testimony. ECF No. 13 at 15–16.

18 In social security proceedings, a claimant must prove the existence of  
19 physical or mental impairment with “medical evidence consisting of signs,  
20 symptoms, and laboratory findings.” 20 C.F.R. § 404.1508. A claimant's

1 statements about his or her symptoms alone will not suffice. 20 C.F.R.  
2 §§ 404.1508; 404.1527. Once an impairment has been proven to exist, the  
3 claimant need not offer further medical evidence to substantiate the alleged  
4 severity of his or her symptoms. *Bunnell v. Sullivan*, 947 F.2d 341, 345 (9th Cir.  
5 1991). As long as the impairment “could reasonably be expected to produce [the]  
6 symptoms,” 20 C.F.R. § 404.1529(b), the claimant may offer a subjective  
7 evaluation as to the severity of the impairment. *Id.* This rule recognizes that the  
8 severity of a claimant’s symptoms “cannot be objectively verified or measured.”  
9 *Id.* at 347 (quotation and citation omitted).

10 However, in the event an ALJ finds the claimant’s subjective assessment  
11 unreliable, “the ALJ must make a credibility determination with findings  
12 sufficiently specific to permit the court to conclude that the ALJ did not arbitrarily  
13 discredit claimant’s testimony.” *Thomas v. Barnhart*, 278 F.3d 947, 958 (9th Cir.  
14 2002). In making such determination, the ALJ may consider, *inter alia*: (1) the  
15 claimant’s reputation for truthfulness; (2) inconsistencies in the claimant’s  
16 testimony or between his testimony and his conduct; (3) the claimant’s daily living  
17 activities; (4) the claimant’s work record; and (5) testimony from physicians or  
18 third parties concerning the nature, severity, and effect of the claimant’s condition.  
19 See *id.* If there is no evidence of malingering, the ALJ’s reasons for discrediting  
20 the claimant’s testimony must be “specific, clear and convincing.” *Chaudhry v.*

1 *Astrue*, 688 F.3d 661, 672 (9th Cir. 2012) (quotation and citation omitted). The  
2 ALJ “must specifically identify the testimony she or he finds not to be credible and  
3 must explain what evidence undermines the testimony.” *Holohan v. Massanari*,  
4 246 F.3d 1195, 1208 (9th Cir. 2001).

5 At step one, the ALJ found that Plaintiff’s medically determinable  
6 impairments could reasonably be expected to cause the alleged symptoms. Tr. 29–  
7 30. But at step two, the ALJ determined that the intensity, persistence, and  
8 limiting effect of the symptoms were not entirely consistent with the record. An  
9 ALJ may not discredit a claimant’s symptom testimony and deny benefits solely  
10 because the degree of the symptoms alleged is unsupported by objective medical  
11 evidence. *Rollins v. Massanari*, 261 F.3d 853, 857 (9th Cir. 2001); *Bunnell v.*  
12 *Sullivan*, 947 F.2d 341, 346–47 (9th Cir. 1991); *Fair v. Bowen*, 885 F.2d 597, 601  
13 (9th Cir. 1989). However, the objective medical evidence is a relevant factor,  
14 along with the medical source’s information about the claimant’s pain or other  
15 symptoms, in determining the severity of a claimant’s symptoms and their  
16 disabling effects. *Rollins*, 261 F.3d at 857; 20 C.F.R. § 416.929(c)(2). Here, the  
17 ALJ found that Plaintiff’s medication has managed her seizures, and she is able to  
18 drive, despite conflicting opinion reports stating otherwise. Tr. 29. She can  
19 complete chores and hygiene tasks. Tr. 29. And the ALJ determined that the  
20 objective medical records do not support the level of physical debilitation Plaintiff

described. *See* ECF No. 6 at 77, 787 (“As expected, pts PE was completely normal, with exception to spine deviation which would most likely be related to her [M]arfan syndrome.”). Her mental health records do not support any marked or extreme limitations. Tr. 37. Moreover, her testimony at the hearing was inconsistent with reports contained in the medical records with respect to driving and daily activities. *See* ECF No. 6 at 54–55. Therefore, the Court does not find that the ALJ erred in her findings of Plaintiff’s subjective complaints.

**8 | ACCORDINGLY, IT IS HEREBY ORDERED:**

- 9       1. Plaintiff's Opening Brief (ECF No. 13) is **DENIED**.

10      2. Defendant's Response Brief (ECF No. 14) is GRANTED. The decision

11           of the Commissioner is **AFFIRMED**.

12 The District Court Executive is directed to enter this Order and Judgment  
13 accordingly, furnish copies to counsel, and **CLOSE** the file.

14 DATED July 14, 2025.



**THOMAS O. RICE**  
United States District Judge